IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7662 OF 2004

Mr.Ambadas R. Sonawane Petitioner

Vs.

Maharashtra State Road Transport
Corporation, Nashik Respondent

Mr.M.S.Topkar for petitioner.
Mr.G.S.Hegde for respondent.

CORAM: B.H.MARLAPALLE,J.
June 16, 2005.

ORAL ORDER:

1. Heard Mr.Topkar, the learned counsel for the petitioner-employee and Mr.Hegde, learned counsel for the respondent-employer.

2. The petitioner was employed under the Corporation as a driver. He was issued the charge-sheet on 17-9-1992 for serious allegations of misconduct including assault on the co-workman, conductor. The charge-sheet had invoked clauses 10, 11, 26, 13 and 28 of Schedule "A". It was alleged that on 10-9-1992 he was on duty as a driver on Nashik-Yeola route and at about 2 p.m. the conductor of the bus gave ring to stop the bus as one lady

passenger wanted to get down at Vinchur. The driver applied urgent brakes and as a result thereof the lady passenger with her child and other passengers dashed against each other and collapsed. Thereafter the driver was rash in his driving and at Yeola when the bus had stopped the passengers lodged a complaint against the driver. He, therefore, got annoyed and not only he started abusing and threatening Shri Damare, the conductor of the bus, but he also went to the extent of assaulting him and during this assault the conductor also sustained some injuries. The incident also caused inconvenience to the passengers and to the administration in asmuchas another driver had to be deputed on the said bus for the remaining journey. The conductor lodged a report to the police station. The petitioner submitted his reply belatedly to the charge-sheet on 23-12-1992 and denied all the charges saying that he was falsely implicated by the members of the rival union but at the same time he admitted that there was some hot discussion between him and the conductor who was misled to give a false complaint. The departmental enquiry found the charges to be proved against the driver and ultimately he was awarded the punishment of dismissal vide order dated 20-6-1994. He raised a

demand for reinstatement which was referred for adjudication to the Labour Court and registered as Reference (IDA) No.19 of 1995. The reference has been rejected by the impugned award dated 31-3-2003 passed by the Labour Court at Nashik.

3. The Labour Court on the assessment of the evidence produced before it and on hearing the rival contentions held that the findings recorded by the Enquiry Officer were just and proper and the enquiry was not vitiated on any count. The principles of natural justice were duly followed and the material on record was more than sufficient to prove the allegations levelled against the driver. The petitioner had referred to a number of judgments which have been duly considered by the Labour Court. No doubt under Section 11-A of the Industrial Disputes Act, 1947 the Labour Court had the powers to mould the relief but the learned Judge refused to do so by giving the following reasoning in para 12 of the impugned award:

> "Having considered all the aspects of the matter, I find that conduct of the concerned workman as proved did justify the dismissal.

> The concerned workman was a public servant. Instead of serving the people, he indulged in rude behaviour and rash driving, which could even endanger the safety of the passengers as well as the public. When the passengers made complaint, the concerned workman got annoyed and he abused the conductor as well as beat him up. Such a behaviour does not deserve any mercy. The corporation is a public body engaged in passenger transport. Both driver as well as conductor are the ultimate field workers who have to serve the public and earn for the corporation. Having regard to the misconduct proved, even if it is presumed that the service record of the concerned workman was clean, the dismissal cannot be said to be illegal or unjustified."

4. Any other view in such a case would undermine the discipline in public service and the Labour Court rightly, having considered all the aspects, declined to entertain the demand for reinstatement in service by quashing and setting aside the order of dismissal. The view taken by the Labour Court that the order of dismissal was justified in the facts of this case

cannot be held to be perverse so as to call for interference while exercising powers of superintendence under Article 227 of the Constitution.

5. Hence the challenge to the impugned award fails and the petition is rejected summarily.

(B.H.MARLAPALLE,J.)